

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to motorized bicycle education

The Department of Transportation hereby amends Chapter 602, “Classes of Driver’s Licenses,” and Chapter 636, “Motorized Bicycle Rider Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.189.

Purpose and Summary

This rule making relates to motorized bicycle (moped) rider education and aligns with existing legal authority and Department practice, eliminates outdated or irrelevant requirements or options, and accommodates modern electronic procedures and terminology.

Rule 761—636.4(321) is amended to consolidate instructor and course approval requirements into a single rule because those requirements are the same for all programs seeking to provide a motorized bicycle rider education course, regardless of whether the provider is a school district or a private/commercial sponsor. However, an application fee only pertains to private/commercial sponsors. The amendments to this rule also specify the length of validity of the course approval and renewal procedures.

This rule making includes a conforming change to subrule 602.2(1) to provide that a certificate of completion of an approved course may be submitted electronically through the Department’s online reporting system by a participating Iowa-approved motorized bicycle rider education provider. This rule making also includes an amendment to update the implementation sentence for rule 761—602.26(321).

Current terminology within Chapter 636 is amended to refer to program approval rather than a license, and instructor rather than a teacher, and the chapter is amended to specify that the instructor must be listed on the program application to be approved.

Finally, the amendments incorporate the clear driving record standards used by the Department for behind-the-wheel driver education instructors and motorcycle rider instructors and clarify the Department’s current practice of either canceling or denying the instructor’s approval if the instructor does not meet the instructor qualifications under the chapter.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 26, 2020, as **ARC 5154C**. No public comments were received. However, one change from the Notice has been made. Due to recently adopted amendments to subrule 602.2(1) in **ARC 5204C** (IAB 10/7/20), subrule 602.2(1) in Item 1 has been updated to reflect the current content of the subrule.

Adoption of Rule Making

This rule making was adopted by the Department on October 13, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 9, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 602.2(1), introductory paragraph, as follows:

602.2(1) Certificate of completion. Proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education, or motorized bicycle education shall be submitted to the department on Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, except that proof of successful completion of an Iowa-approved course in driver education or motorcycle rider education may instead be submitted or through an online reporting system used by participating Iowa-approved driver education schools, motorcycle rider education, or motorcycle motorized bicycle rider education providers.

ITEM 2. Amend rule **761—602.26(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.177₂, 321.180B₂, 321.189₂, 321.194 as amended by 2019 Iowa Acts, Senate File 140, sections 1 and 2; and 321.196.

ITEM 3. Amend rule 761—636.1(321) as follows:

761—636.1(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the ~~Office of Driver and Identification Services Bureau~~, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(515)237-3453~~ (515)244-8725; or by facsimile at ~~(515)237-3071~~ (515)239-1837.

ITEM 4. Adopt the following new definitions of “Instructor” and “Program approval” in rule **761—636.2(321)**:

“*Instructor*” means a person approved by the department to instruct a motorized bicycle rider education course.

“*Program approval*” means department approval of an entity's motorized bicycle rider education course and instructors.

ITEM 5. Amend rule 761—636.4(321) as follows:

761—636.4(321) Agencies or institutions Approved program in motorized bicycle rider education.

636.4(1) Program approval. Any school district, area education agency, merged area school, other agency or individual entity planning to offer a motorized bicycle rider education course must receive course program approval from the department prior to the beginning of the first class that is offered

and annually thereafter. ~~The agency or institution or individual shall complete a form provided by the department to apply for course approval. Course approval will be issued for a calendar year or remainder of a calendar year. The approval expires on December 31 and must be renewed annually.~~

636.4(2) *Application and fees.* Application for initial program approval or annual program approval renewal shall be made to the department in a manner determined by the department. The application fee is \$25 for a private or commercial sponsor. The fee must be paid by cash, money order or check unless the department approves payment of the fee by electronic means. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

636.4(3) *Initial program approval and annual renewal.* Program approval to provide motorized bicycle rider education shall be issued for a calendar year or remainder of a calendar year. The program approval expires on December 31 but remains valid for an additional 30 days after the expiration date. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department.

636.4(4) *Cancellation and denial.* The department shall cancel or deny program approval if the course or instructors are no longer approved.

ITEM 6. Rescind rule **761—636.5(321)**.

ITEM 7. Renumber rules **761—636.7(321)** to **761—636.9(321)** as **761—636.5(321)** to **761—636.7(321)**.

ITEM 8. Amend renumbered subrule 636.5(1) as follows:

636.5(1) *Classroom instruction.* An approved course shall consist of a minimum of six clock hours of classroom instruction which includes the instructional components contained in subrule **636.7(3)** **636.5(3)**.

ITEM 9. Amend renumbered rule 761—636.6(321) as follows:

761—636.6(321) *Teacher qualifications Instructor approval.* ~~A teacher~~ An instructor of an approved motorized bicycle rider education course must be listed on the application for program approval as provided in subrules 636.4(1) and 636.4(2) and approved by the department.

636.6(1) *Instructor qualifications.* An instructor of an approved course shall possess a valid driver's license allowing unaccompanied driving other than a temporary restricted license and shall be able to operate a motorized bicycle. A teacher An instructor must also have a clear driving record for the previous two years. A clear driving record means the ~~teacher~~ instructor has:

636.6(1) a. Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

636.6(2) b. No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

636.6(3) c. Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

636.6(4) d. No record of an accident for which the individual was convicted of a moving traffic violation a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.

e. No record of a law enforcement investigative report indicating two or more contributive motor vehicle accidents in a two-year period.

636.6(2) *Cancellation and denial.* When an instructor of an approved program does not meet the qualifications under this chapter, the department shall remove the instructor from the approved program and cancel or deny the approval of the program unless the entity has submitted an application for or secured approval of an alternate instructor from the department.

ITEM 10. Amend renumbered rule 761—636.7(321) as follows:

761—636.7(321) Evaluation. Each student shall be evaluated by the instructor to determine successful completion of the course.

[Filed 10/13/20, effective 12/9/20]

[Published 11/4/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/20.